

# Consignment Sales

Instead of making direct sales, individuals and businesses often place goods with others who make sales for them. Those transactions are commonly called *consignment sales*. In most cases, both the owner of the item and the seller need to register with us, obtain a seller's permit, and report their sales on sales and use tax returns. However, if you make no more than two qualifying sales or consignments in any twelve-month period, your sales are generally considered "occasional sales." You do not have to register for a seller's permit or report those sales or consignments.

This fact sheet provides information on who must report and pay the tax due on consignment sales.

## **I sell items placed with me on consignment. When is my consignment sale considered a retail sale?**

You are responsible for obtaining a seller's permit and paying the sales tax due on a consignment sale you make for someone else when you

- Have possession or control of the item you are selling, and
- Can transfer ownership or use of the item to the buyer without further action on the part of the owner.

Tax applies to your sale based on the item's retail selling price.

For example, you may own a jewelry store where you sell used jewelry on consignment. Typically, the owner of a piece of jewelry will bring it to you and sign an agreement that authorizes you to sell the item and transfer ownership to the buyer. You are considered the retailer of jewelry you sell in this way and must pay sales tax based on your retail selling price.

If you make sales on behalf of others, and those sales do not meet the two conditions described above, please read "I arrange sales . . .," below.

## **Can I furnish resale certificates to registered sellers who consign items to me for sale?**

Yes, if you are a retailer of consigned items and you hold a seller's permit. You should state on the certificate that you are taking the item on consignment rather than buying it.

## **I arrange sales for other people, but my sales agreements don't fit the two conditions described above. Are my sales taxable?**

Probably not. You may qualify as a broker under sales and use tax rules if you cannot transfer ownership of an item to the buyer or if the conditions listed above otherwise do not apply to your transaction. When you qualify as a broker, you generally will *not* owe sales tax for the transaction. Instead, the owner of the property would be the seller and may be responsible for tax on the sale. While you are not required to hold a seller's permit for

*More* ►

## **Sales and Use TAX FACTS**

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For additional information you may wish to order the resources listed in this fact sheet or talk to a Board of Equalization representative. For assistance, please call 1-800-400-7115 (for the hearing-impaired: — from TDD phone: 800-735-2929; — from voice phone: 800-735-2922). Internet: [www.boe.ca.gov](http://www.boe.ca.gov)

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broker transactions, you *would* need a permit if you make sales on your own behalf. If you need help determining whether you're a retailer or a broker, or whether you need a seller's permit, please call our Information Center. Please note that special use tax rules apply to boat and airplane brokers (see our publication 40, *Tax Tips for the Watercraft Industry*).

### **I place items with retailers on consignment. Do I need a seller's permit?**

Yes. You generally need to obtain a seller's permit even if you make all of your sales by placing items with consignment shops, auction houses, art galleries, antique dealers, or similar businesses that make sales on your behalf.

### **Will I owe sales tax when someone sells an item for me on consignment?**

No, unless the sale is made through a broker (see below). You must include your receipts from consignment sales in the "total sales" you list on your sales and use tax return for the period in which the sale is made. You then need to deduct those consignment receipts from your total sales. List them on the return line for

- "Sales for resale," if the retailer has issued you a resale certificate, or
- "Other" deductions, if the retailer has *not* issued you a resale certificate.

If you take the deduction on the "Other" deductions line, be sure to state that the deduction is for "consignment sales."

**Broker sales.** If a seller cannot transfer ownership of your item to a buyer without first getting your permission, or you otherwise maintain control of the item prior to the sale, the seller is considered a broker, not a retailer. You generally owe sales tax on sales made through brokers.

### **What if the shop rents or leases my item to someone?**

When you place an item with a shop on consignment and it is subsequently rented or leased, you must obtain a seller's permit and collect and pay use tax on the full rent or lease payments. However, you do not owe tax on the payments you receive if you paid an amount for tax on the item when you acquired it and rent or lease it in substantially the same form. You cannot take a use tax deduction for any commission you may pay to the shop.

### **Example, typical consignment transaction**

An antique bottle collector places five bottles on consignment with an antique store, which issues her a resale certificate. The store sells the bottles for \$1500 and pays the collector \$750 when the sales are final. The collector's \$750 in proceeds are nontaxable sales for resale. The store must pay sales tax on the full \$1500 it received for the bottles.

### **For more information**

You may order the items below from our Information Center or check for them on our Web site:

#### **Regulations**

- |      |   |
|------|---|
| 1569 | Consignees and Lienors of Tangible Personal Property for Sale |
| 1668 | Resale Certificates   |

#### **Publications**

- |     |   |
|-----|---|
| 40  | Tax Tips for the Watercraft Industry      |
| 103 | Sales for Resale                          |
| 107 | Do You Need a California Seller's Permit? |

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*Note: The statements in this fact sheet are general and are current as of January 2001. The sales and use tax law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.*